

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed September 21, 2005. At the time of the Final Office Action, Claims 6-15 were pending in this Application. Claims 1-5 were previously cancelled by Applicants without prejudice or disclaimer. Claims 6-15 were rejected. Claim 6 has been amended to clearly define the various features of Applicants invention. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. §103

Claims 6-15 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,778,971 issued to Altschuler ("Altschuler") in view of U.S. Patent 6,445,963 issued to Blevins ("Blevins"). Applicants believe that the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

In particular, the Examiner stated in the Advisory Action that "*the means for main clock selection has not been limited, any source can be used to provide the main clock function.*" Applicants respectfully disagree.

The independent claims includes the limitation of:

“by selecting one of the clock sources form the group of clock sources consisting of: an internal timer of the industrial controller, an internal timer of a communication bus, a clock source within an external device, and a clock source within a technological process”

Thus, even though the independent claims define that the main clock source is selected from a plurality of clock sources, the variety of clock sources that can be selected must include at least *“an internal timer of the industrial controller, an internal timer of a communication bus, a clock source within an external device, and a clock source within a technological process .”* This is a clear limitation and does not allow for any interpretation. Even though more clock sources could be provided, the minimum requirement for a selection is defined. Therefore, contrary to the Examiner’s evaluation, this Markush group is clearly defined to include a defined set of clock sources. Thus, it is not that any type of clock source can be used.

Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claims to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

Petition for Extension of Time

Applicants enclose a Petition for Extension of Time for one-month and a check in the amount of \$120.00 for the extension fee.

CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants enclose a Request for Continued Examination (RCE), and a check in the amount of \$790.00 for the RCE fee. Applicants also enclose a Petition for One Month Extension of Time, and a check in the amount of \$120.00 for the extension fee. Applicants believe there are no additional fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,
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